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SERVICE DATE – JULY 18, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35765

WICHITA TERMINAL ASSOCIATION, BNSF RAILWAY COMPANY & UNION PACIFIC
RAILROAD COMPANY—PETITION FOR DECLARATORY ORDER

Decided: July 17, 2014

By petition filed on October 18, 2013, Wichita Terminal Association, BNSF Railway Company, and Union Pacific Railroad Company (collectively WTA) requested that the Board institute a declaratory order proceeding to resolve a dispute between WTA and F.Y.G. Investments, Inc. and Treatco, Inc. (collectively FYG) regarding a railroad crossing at the proposed Emporia Court in Wichita, Kan. The dispute involves approximately 1,000 feet of WTA's east-west running "interchange tracks" (IT). On May 20, 2014, the Board instituted a proceeding and set a procedural schedule.

On June 30, 2014, pursuant to the procedural schedule, WTA filed its Opening Statement. The Opening Statement includes WTA interchange data, rail movement data, and verified statements of three new witnesses. On July 9, 2014, FYG submitted a request for an extension of time, seeking an additional 30 days to file its reply. FYG's primary argument in support of its request is that WTA's Opening Statement includes new witnesses and voluminous new evidence. FYG states that it needs additional time to respond to this new evidence and to investigate new allegations.

According to FYG, WTA consents to only a 15-day extension. FYG states that it would need a 30-day extension to fully respond to the new contentions. FYG's request will be granted. A 30-day extension will not unreasonably prolong the proceeding, and there is no evidence that it would prejudice the interests of WTA. Accordingly, FYG's Reply will be due on August 25, 2014. WTA's Rebuttal will be due on September 9, 2014.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. FYG's request for an extension of time is granted.

2. FYG's Reply is due on August 25, 2014, and WTA's Rebuttal is due on September 9, 2014.

3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.